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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,114	06/29/2004	Renwick Byron Jeffrey		1306

7590

12/07/2005

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EXAMINER

SANDY, ROBERT JOHN

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/772,114	Applicant(s) JEFFREY, RENWICK BYRON	
	Examiner Robert J. Sandy	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/29/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: The disclosure includes a figure on page 3. As previously indicated in the Office communication mailed 17 September 2004, "Drawings or flow diagrams cannot be embedded in the specification and should be submitted separately in accordance with 37 CFR 1.84. (Both a substitute specification and substitute drawings are required)."

A substitute specification excluding the figure shown on page 3 and the claims is required pursuant to 37 CFR 1.125(a) because drawings or flow diagrams cannot be embedded in the specification and should be submitted separately in accordance with 37 CFR 1.84.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

Appropriate correction is required.

Claim Objections

Claims 2-10 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claims 5-10 are further objected to for not being associative of any category of invention. Claims 5-10 appear to be a narrative advertising what the device is intended to, or not do.

Furthermore, Claims 2-10 are in improper dependant form for not having a preamble corresponding to the base claim 1. See 37 CFR 1.75. For example, claim 4 in proper form could be as follows:

Claim 4 (example). The magnetic holding device according to claim 1, further comprising a hinge area being integrated into each of the said parts, where said hinge area allows one of the said parts to be attached to, or mounted on a surface, and which allows the other of the said two parts to be freely movable around said hinge area.

Claim 3 is further objected to for not being is one sentence form.

In claim 3, line 2, the phrase “the said two parts” should be changed to properly read as “said two parts”.

In claim 3, line 3, the phrase “the said parts” should be changed to properly read as “said parts”.

In claim 4, bridging lines 1 and 2, there is no antecedent basis for "said hinge design”.

In claim 4, lines 1 and 3, the phrase “the said two parts” should be changed to properly read as “said two parts”.

In claim 4, line 2, the phrase “the said parts” should be changed to properly read as “said parts”.

In claim 4, line 4, the phrase “the said hinge point” should be changed to properly read as “said hinge area”, in addition to providing proper antecedent basis.

Claim 5 is further objected to for not ending with a single period (.).

In claim 6, line 1, the phrase “the said two parts” should be changed to properly read as “said two parts”.

In claim 6, lines 1-3, each occurrence of the term “it” is indefinite, per se, for not being definitive of any particular claimed structure.

In claim 6, bridging lines 1 and 2, there is no antecedent basis for "the material”.

The above occurrences of improper phraseology and objections are not meant to be an exhaustive list, and applicant should review all claims in their entirety for further occurrences of indefiniteness, and correct accordingly.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Berglöff et al. (U.S. Patent No. 5,682,653). Berglöff et al. ('653) discloses a magnetic holding device (shown Figs. 1 and 2) comprising two elongated parts (member 11 and 12 formed from tubular sheath 13) made of nonferrous material ("plastic"; col. 2, line 20) containing a magnet (16) in each of the two parts in order to attract each of the parts to one another at a given mating point (as demonstrated in Fig. 2); the magnets are imbedded (i.e., within sheath 13) in the non ferrous elongated parts such that the two parts will be magnetically attracted at one specific mating area of each of the parts; a hinge area (13A) is integrated into each of the parts, wherein the hinge area allows one of the parts to be attached to, or mounted on a surface, and which allows the other of the two parts to be freely movable around the hinge point; and the holding device providing a continuous even holding pressure without the use of springs; the holding device is self centering so that specific contact area is in correct alignment (via magnets).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ROBERT J. SANDY
PRIMARY EXAMINER